


FILED

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS

CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY  DEPUTY CLERK

AUSTIN DIVISION

The Honorable Andrew W. Austin

Tierney Barron McCracken

v.

Michael M. Barron and Barron,
Adler & Anderson, LLP.

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§

CIVIL ACTION NO.
A-06-CA-970 LY

PLAINTIFF'S RESPONSE TO ORDER

1. I am not an attorney.
2. This is Plaintiff's response to Judge Austin's ORDER, to me, for complete and correct contact information.
3. Format. This written response follows my phone call to Judge Austin's Chambers, as I intended to comply with the ORDER verbally. One of His Honor's Clerks was kind enough to explain that calls to Chambers are not appropriate. I was directed to the Clerk of the Court, Austin Division, for information on proper formats and other procedural matters.

Tierney Barron McCracken.

This contact information is:

Tierney Barron McCracken
447 North Braddock Street
Winchester, Virginia 22601

Telephone numbers: (540) 667-8099
(540) 667-9077

E-mail address One: tierney.mccracken@verizon.net
Two: mccrackenRLG@aol.com

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS

AUSTIN DIVISION

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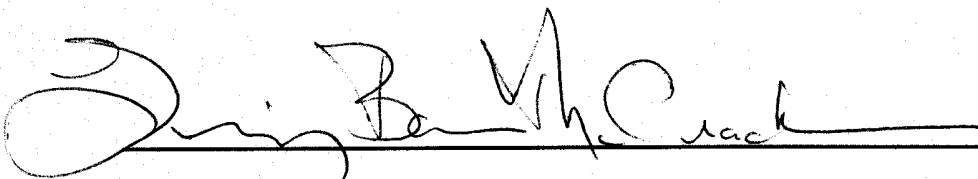
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CIVIL ACTION NO.
A-06-CA-970 LY

I, Tierney Barron McCracken, certify that I have sent a copy of the enclosed documents to

Gary E. Zausmer
Winstead, PC
401 Congress Avenue
Suite 2100
Austin, Texas 78701

counsel for Michael M. Barron,



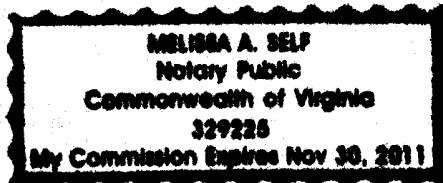
Tierney Barron McCracken

Date

November 16
2007

cln Winchester 29
on 11/16/07

Melissa Self



Page 3

I N D E X

1

2

3 Appearances ----- 2

4 TIERNEY McCracken

5 Examination by Mr. Zausmer ----- 4

6 Changes and Signature ----- 27

7 Reporter's Certification ----- 29

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Page 4

1 VIDEOGRAPHER: This is the
2 videotaped oral deposition of Tierney McCracken.
3 Today's date is October 16th, 2007. We're on the
4 record at 10:53 a.m. If the court reporter will
5 swear in the witness.

6 THE REPORTER: Ms. McCracken,
7 will you raise your right hand, please? Just to
8 swear you in.

9 THE WITNESS: Yeah. I'm a
10 little bit -- I might need a break. I'm sorry. I
11 have apologized for keeping everybody waiting. I
12 know it's rude, but --

13 MR. ZAUSMER: Would you like a
14 moment, ma'am, to collect yourself? Would you like
15 to take a --

16 THE WITNESS: No, I don't. Yes.
17 Please go on.

18 TIERNEY McCracken,
19 having been first duly sworn, testified as follows:

20 EXAMINATION

21 BY MR. ZAUSMER:

22 Q State your name for the record, ma'am.
23 A Tierney Augusta Barron McCracken.
24 Q Where do you reside, ma'am?
25 A In 447 North Braddock Street, Winchester,

Tierney McCracken

October 16, 2007

<p style="text-align: right;">Page 5</p> <p>1 Virginia.</p> <p>2 Q And with whom do you reside there?</p> <p>3 A My husband and my son.</p> <p>4 Q Your husband's name, please?</p> <p>5 A Steven Everett McCracken.</p> <p>6 Q Your son's name?</p> <p>7 A Cannon Barron McCracken.</p> <p>8 Q How old is Cannon?</p> <p>9 A Cannon's 14.</p> <p>10 Q Okay. Are you ready to proceed with your</p> <p>11 deposition, ma'am?</p> <p>12 A Yes, I am. Thank you for waiting.</p> <p>13 Q Okay. You have testified under oath</p> <p>14 before, have you not, ma'am?</p> <p>15 A Yes, I have.</p> <p>16 Q You understand that your deposition today</p> <p>17 is under oath?</p> <p>18 A Yes.</p> <p>19 Q You understand that you've sworn to tell</p> <p>20 the truth?</p> <p>21 A Oh, yes.</p> <p>22 Q You understand that if you fail to tell</p> <p>23 the truth, that you risk the penalties of perjury?</p> <p>24 You understand that?</p> <p>25 A Yes, I do.</p>	<p style="text-align: right;">Page 7</p> <p>1 A Yes. I'm just getting a handkerchief. Go</p> <p>2 ahead.</p> <p>3 Q So I want to make sure that I finish my</p> <p>4 question before you begin your answer. All right?</p> <p>5 Will you do your best to help on that front?</p> <p>6 A That you finish your question before I</p> <p>7 begin my answer? Yes. Yes.</p> <p>8 Q Also, if I should start up my next</p> <p>9 question before you've completed your answer, will</p> <p>10 you let me know so that I give you every opportunity</p> <p>11 to give a complete and truthful answer to all my</p> <p>12 questions?</p> <p>13 A Yes.</p> <p>14 Q Okay. Another thing that will help the</p> <p>15 court reporter is if you avoid nodding or shaking</p> <p>16 your head or using the expression uh-huh or huh-uh,</p> <p>17 because those expressions and those nods and shakes</p> <p>18 of the head sometimes can be unclear or</p> <p>19 misinterpreted.</p> <p>20 A Yes.</p> <p>21 Q Also, Ms. McCracken, you'll recall that</p> <p>22 moments ago I offered to either delay the start of</p> <p>23 the deposition or to allow you the opportunity to</p> <p>24 take a break?</p> <p>25 A Yes, you did.</p>
<p style="text-align: right;">Page 6</p> <p>1 Q You also understand that if you fail to</p> <p>2 tell the truth and give complete and accurate</p> <p>3 testimony, that that could be pointed out to the</p> <p>4 Court and that there can be sanctions that could be</p> <p>5 leveled against you for failing to tell the truth?</p> <p>6 You understand that?</p> <p>7 A Yes. Thank you.</p> <p>8 Q You also understand that I can point out</p> <p>9 to the jury instances where you have testified</p> <p>10 differently today from the way you testify at trial.</p> <p>11 You understand that?</p> <p>12 A Yes, sir.</p> <p>13 Q I know that you've given your deposition</p> <p>14 before, but I just want to make sure that we go</p> <p>15 through a few ground rules.</p> <p>16 A Yes, sir.</p> <p>17 Q One is that the court reporter here is</p> <p>18 taking down everything that is said by you and by me</p> <p>19 and the others in this room. You understand that?</p> <p>20 A Yes, sir.</p> <p>21 Q You also understand that the deposition is</p> <p>22 being videotaped today?</p> <p>23 A Yes, I do.</p> <p>24 Q It will help the court reporter for us</p> <p>25 both not to be talking at the same time.</p>	<p style="text-align: right;">Page 8</p> <p>1 Q And I want to reiterate that if at any</p> <p>2 point during the course of this deposition that</p> <p>3 you're not feeling up to going forward with your</p> <p>4 deposition and you would like to take a break, I</p> <p>5 want to make sure that you let us know so that you</p> <p>6 take a break. All right?</p> <p>7 A Thank you. And again, I apologize for the</p> <p>8 delay.</p> <p>9 Q Thank you. I would add, though, that if</p> <p>10 there's a question pending, you must answer that</p> <p>11 question before you take or ask to take a break.</p> <p>12 You understand that? Okay.</p> <p>13 A All right. How long do you anticipate the</p> <p>14 deposition? Do we have any -- a couple -- I mean --</p> <p>15 MR. DeSHAZO: Tierney, just</p> <p>16 answer his questions. He's here to ask the</p> <p>17 questions and you're here to answer the questions.</p> <p>18 You don't get to ask questions. Do you understand</p> <p>19 me?</p> <p>20 Q (By Mr. Zausmer) So to reiterate, I'll be</p> <p>21 certainly amenable to taking breaks at appropriate</p> <p>22 times if you need that. I also am anticipating that</p> <p>23 we'll have an opportunity to take a lunch break --</p> <p>24 A Yes.</p> <p>25 Q -- if you'd like. Okay?</p>

Tierney McCracken

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<p style="text-align: right;">Page 9</p> <p>1 A Why don't we take a break now.</p> <p>2 Q Okay.</p> <p>3 A Just a few minutes.</p> <p>4 Q Okay.</p> <p>5 A Thank you.</p> <p>6 (At 10:59 a.m. the proceedings</p> <p>7 recessed, continuing at 3:08 p.m.)</p> <p>8 VIDEOGRAPHER: Back on the</p> <p>9 record at 3:08. Would you please re-swear in the</p> <p>10 witness?</p> <p>11 (At this time the witness was</p> <p>12 sworn in again.)</p> <p>13 Q (By Mr. Zausmer) Would you please state</p> <p>14 your name for the record?</p> <p>15 A Tierney Augusta Barron McCracken.</p> <p>16 Q And Ms. McCracken, are you prepared to go</p> <p>17 forward with stating on the record the terms and</p> <p>18 conditions of a settlement agreement that has been</p> <p>19 reached over the course of the last several hours</p> <p>20 this morning and this afternoon?</p> <p>21 A Yes, sir.</p> <p>22 Q And so that we have it clear for the</p> <p>23 record, would you state your address?</p> <p>24 A I live at 447 North Braddock Street,</p> <p>25 Winchester, Virginia.</p>	<p style="text-align: right;">Page 11</p> <p>1 You've been very generous. Thank you.</p> <p>2 Q (By Mr. Zausmer) And when you said "you,"</p> <p>3 you were looking at Mike when you said that?</p> <p>4 A Yes, I was.</p> <p>5 Q Okay. Not that I haven't been generous,</p> <p>6 but you've been looking at Mike.</p> <p>7 A Yes. You've been wonderful too.</p> <p>8 Q Okay.</p> <p>9 A Yes.</p> <p>10 Q And as you know, this is being recorded by</p> <p>11 the court reporter, and you're under oath.</p> <p>12 A Yes.</p> <p>13 Q And you also understand that there's a</p> <p>14 videographer here --</p> <p>15 A Yes.</p> <p>16 Q -- Ms. Vague, and she's videotaping this</p> <p>17 for us, right?</p> <p>18 A Yes. I -- yes. And Mr. Rogstad?</p> <p>19 Q And Mr. Rogstad is here --</p> <p>20 A Uh-hum.</p> <p>21 Q -- and he, of course, is counsel for</p> <p>22 Mr. Barron's law firm. You understand that?</p> <p>23 A Yes.</p> <p>24 Q And you're here with the attorneys of</p> <p>25 record representing the plaintiff in this lawsuit.</p>
<p style="text-align: right;">Page 10</p> <p>1 Q And with whom do you live there, ma'am?</p> <p>2 A I live with my husband, Steven McCracken,</p> <p>3 and my son, Cannon Barron McCracken.</p> <p>4 Q And state your date of birth.</p> <p>5 A 3/3/60.</p> <p>6 Q And your Social Security number, please?</p> <p>7 If you have it or know it.</p> <p>8 A 459-80-1078.</p> <p>9 Q Thank you, ma'am. And are you feeling</p> <p>10 well enough to proceed forward with stating on the</p> <p>11 record the terms and conditions of the settlement</p> <p>12 agreement that we reached?</p> <p>13 A Oh, yes. I'm perfectly fine. Thank you.</p> <p>14 Q All right. Ms. McCracken, I'm going to</p> <p>15 read off the terms and conditions of the settlement</p> <p>16 agreement that was achieved over the course of a</p> <p>17 number of hours today.</p> <p>18 A Yes. Thank you for taking the time.</p> <p>19 Q Certainly. And we're here today with, of</p> <p>20 course, Mike Barron, your uncle.</p> <p>21 A Yes, sir.</p> <p>22 Q And he, of course, has been directly</p> <p>23 involved in the negotiation process in connection</p> <p>24 with the agreement that we've achieved, correct?</p> <p>25 THE WITNESS: I appreciate that.</p>	<p style="text-align: right;">Page 12</p> <p>1 Attorneys of record for the plaintiff, Mr. DeShazo</p> <p>2 and Mr. Paxton, they're here today, correct?</p> <p>3 A Yes.</p> <p>4 Q And they're in this room with us?</p> <p>5 A Yes.</p> <p>6 Q Okay. So if I may proceed forward to read</p> <p>7 off the terms and conditions of the settlement that</p> <p>8 has been reached on behalf of the plaintiff, you,</p> <p>9 and on behalf of the defendants, Mike and his law</p> <p>10 firm who you have sued in this federal court matter.</p> <p>11 Okay?</p> <p>12 A Yes.</p> <p>13 Q Number 1, Mike will effectuate, as proper</p> <p>14 under Texas real estate law and practice, the</p> <p>15 conveyance of a one-half of one-third interest of</p> <p>16 the B.P. Buckner tract survey that has been</p> <p>17 identified in the course of this lawsuit. The tract</p> <p>18 in toto, the entire B.P. Buckner tract survey</p> <p>19 in toto is approximately 235 acres.</p> <p>20 A Yes.</p> <p>21 Q Number 2, Mike will acknowledge,</p> <p>22 Mike Barron will acknowledge your right to and</p> <p>23 support your appropriate efforts to effectuate a</p> <p>24 one-half of one-fourth undivided interest in</p> <p>25 whatever property is owned by William Cannon Barron</p>

3 (Pages 9 to 12)

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<p style="text-align: right;">Page 13</p> <p>1 and/or the William Cannon Barron Trust in the 2 Millican town site, correct? 3 A Yes. 4 Q Number 3, Mike Barron will acknowledge 5 your right, Tierney McCracken's right, to and 6 support your appropriate efforts to effectuate a 7 one-half of one-fourth undivided interest in any 8 mineral interest owned by William Cannon Barron 9 and/or the William Cannon Barron Trust not in the 10 Barron Mineral Partnership, correct? 11 A Yes. Yes. Thank you. Yes. 12 Q Mike Barron has agreed to locate 13 photographs, letters, and mementos of your father, 14 David Barron, in your possession and provide you 15 with select photos, letters, or mementos of your 16 dad. 17 A Thank you. 18 Q Mike has also agreed to provide you with a 19 Capodimonte pitcher -- 20 MR. BARRON: No. We substituted 21 the sword cane for that. 22 THE WITNESS: Yes. 23 Q (By Mr. Zausmer) I'm sorry. 24 A Thank you. 25 Q Thank you very much. I apologize.</p>	<p style="text-align: right;">Page 15</p> <p>1 has been agreed that settlement documents will be 2 prepared by defense counsel. The settlement 3 documents will include a comprehensive release. In 4 this comprehensive release you and your husband 5 Steve will release Michael Barron in all capacities, 6 his law firm, Jill Barron, the William Cannon Barron 7 Trust, the David A. Barron Family Trust, the Isabel 8 B. Barron Estate, the William Cannon Barron Estate, 9 the Effie Barron Cannon Estate, along with Matt and 10 Lindsey Barron, Barbara and Larry Stewart, Bill and 11 Lourdes Barron. 12 And again, this comprehensive 13 settlement document will include the mutual -- I'm 14 sorry, will include the extensive release that I've 15 just described. This comprehensive settlement 16 document will also include an indemnity provision 17 where you will indemnify Mike Barron and the other 18 parties released for any and all claims brought, 19 which may be brought by, through, or under you or 20 otherwise. 21 This comprehensive settlement 22 agreement will include an assignment of any and all 23 claims that aren't released by you, if there are any 24 such claims. The release, as I emphasized, will be 25 sweeping and comprehensive, and it will encompass</p>
<p style="text-align: right;">Page 14</p> <p>1 MR. ZAUSMER: Thanks, Mike. 2 Q (By Mr. Zausmer) So that's good, because 3 it's easier for me to spell "sword" than 4 "Capodimonte." So I appreciate that clarification. 5 The court reporter is adept and she would have known 6 how to spell it, but I wouldn't have known how to. 7 It has been agreed that Mike will 8 provide you with a sword that I believe belonged to 9 Mike's father. 10 MR. BARRON: It's actually a 11 sword cane. 12 Q (By Mr. Zausmer) A sword cane that 13 belonged to Mike's father. It has also been agreed 14 that Mike will continue to explore at his place 15 whether any of your dad's military mementos exist 16 there and will route to you and to Matt any such 17 select military mementos that may be located at 18 Mike's place. 19 A Okay. Thank you. 20 Q It is also been agreed that the sum of 21 \$12,500 will be contributed on Mike's behalf and on 22 behalf of the defendants in connection with the 23 resolution of this matter, correct? 24 A Yes. Thank you. 25 Q And in consideration for the foregoing, it</p>	<p style="text-align: right;">Page 16</p> <p>1 any and all claims whether known or unknown, 2 asserted or unasserted. You understand all that and 3 agree to all that? 4 A Yes. 5 Q In addition, Mike will release you with 6 respect to any claims that he may have for your 7 filing of this lawsuit against him and your 8 initiating State Bar proceedings against him and the 9 lost opportunity that he had with regard to a recent 10 real estate project. You understand that? 11 A Yes. 12 Q And agree to that? 13 A Yes. 14 Q Have I properly stated the terms of the 15 settlement agreement, and have I completely stated 16 the terms of the settlement agreement that have been 17 reached today and have now been recited on the 18 record? 19 A Just one more thing, a couple more things. 20 I have Mike's permission to send Joe Cannon at 21 Mike's -- my own expense to file my father's will in 22 Limestone County, is that correct, at Cannon and 23 Simmons? 24 Q That is correct. 25 A Okay. And then DeShazo & Associates have</p>

<p style="text-align: right;">Page 17</p> <p>1 waived the rest of their fee and are no longer my 2 attorneys of record. 3 Q Well, they may have waived their fee, but 4 for them not to -- 5 A I mean after this. 6 Q After the lawsuit is concluded and the 7 settlement is consummated, if you no longer want 8 them to be your attorneys of record in connection 9 with any proceedings, that's something that you will 10 have to work out with Mr. DeShazo and Mr. Paxton. 11 But I think the first point that you made is, that 12 you're wanting to reference, is that they've agreed 13 to waive any future fee; and that's something that 14 you can raise to them and ask them to comment on 15 right now. 16 A Well, okay. 17 THE WITNESS: Mr. DeShazo? 18 MR. DeSHAZO: What? 19 THE WITNESS: There's a question 20 on the table. 21 MR. DeSHAZO: You haven't asked 22 me any question. What question do you have? 23 MR. ZAUSMER: I'll ask -- 24 THE WITNESS: I just wanted to 25 bring it up since so many people have heard it, and</p>	<p style="text-align: right;">Page 19</p> <p>1 Q -- your understanding of the agreement? 2 A Yes. 3 MR. ZAUSMER: And is that a 4 correct representation, recitation of the agreement, 5 Mr. DeShazo? 6 MR. DeSHAZO: No. 7 MR. ZAUSMER: Okay. 8 MR. DeSHAZO: I told her I would 9 waive my fees, and I want my expenses, which are 10 about a thousand dollars, if she would never come to 11 Austin again. And so there's the offer and no 12 acceptance, so we don't have a deal. 13 MR. ZAUSMER: Okay. 14 THE WITNESS: Excuse -- I'm 15 sorry. I didn't hear that. I've given you much 16 more than that. 17 MR. ZAUSMER: Okay. 18 MR. DeSHAZO: No. I refunded 19 your expenses, you may recall. 20 MR. ZAUSMER: Let me offer 21 this -- 22 THE WITNESS: But I gave you 23 \$10,000. 24 MR. DeSHAZO: You didn't give me 25 anything.</p>
<p style="text-align: right;">Page 18</p> <p>1 I want to -- 2 MR. DeSHAZO: Well, bring it up. 3 I'm listening. 4 MR. ZAUSMER: Has it been agreed 5 that effective October 16 forward -- I don't 6 understand -- I don't know the terms of the 7 agreement that you reached with Mr. DeShazo on the 8 fee front. So if you can -- 9 THE WITNESS: I don't owe you 10 any more money, correct? 11 MR. DeSHAZO: Are you asking me 12 a question? 13 THE WITNESS: Doesn't that sound 14 like a question? 15 MR. DeSHAZO: No. That sounds 16 like a statement. What's your question? 17 Q (By Mr. Zausmer) Would it be helpful if I 18 just asked it, since I've been -- 19 A Yes. Thank you. 20 Q -- going through everything? Has some 21 agreement been effectuated between you, Tierney, and 22 your attorney of record, Mr. DeShazo, such that no 23 more fees are due and owing on your part to 24 Mr. DeShazo? I'm asking you that. Is that -- 25 A Yes.</p>	<p style="text-align: right;">Page 20</p> <p>1 MR. ZAUSMER: Okay. Let me 2 suggest this, because I'm not acquainted with the 3 terms and conditions of it. Could we go off the 4 record briefly? 5 MR. DeSHAZO: Gary, let me 6 just -- 7 MR. ZAUSMER: Let me just go 8 off -- 9 MR. DeSHAZO: I can do this real 10 quickly. We'll waive our attorneys fees. Not what 11 you've already paid, but we'll waive any further 12 attorneys' fees. I do want my expenses, which are 13 less than a thousand dollars, which would include a 14 copy of this transcript here today. I want it on 15 the record that when the check is made I do not want 16 my name on it. I want it just strictly to her, and 17 I'll get it to her. 18 And lastly, I'd like the record to 19 reflect that she has been delivered today all of the 20 files that we have in this case, which she has in a 21 box right at her feet which we intend to leave here 22 with her. Because it's customary that women get 23 into arguments about who's got the files. Now, 24 that's what I'm saying. Is that okay? 25 THE WITNESS: I'm not paying you</p>

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<p style="text-align: right;">Page 21</p> <p>1 for anything you did today.</p> <p>2 MR. DeSHAZO: Oh, you're not</p> <p>3 going to pay for the transcript here today?</p> <p>4 THE WITNESS: I may, but I'm not</p> <p>5 going to pay you.</p> <p>6 MR. DeSHAZO: Well, you know,</p> <p>7 then you won't get one and you won't have a deal.</p> <p>8 You want that?</p> <p>9 MR. ZAUSMER: Let me suggest</p> <p>10 that we don't --</p> <p>11 THE WITNESS: We'll talk about</p> <p>12 it later.</p> <p>13 MR. DeSHAZO: We're not going to</p> <p>14 talk about it.</p> <p>15 MR. ZAUSMER: Let me suggest</p> <p>16 that we go off the record and do it.</p> <p>17 THE WITNESS: I thought we were</p> <p>18 off the record. I'm sorry.</p> <p>19 MR. ZAUSMER: We're not.</p> <p>20 THE WITNESS: Okay. Well, your</p> <p>21 behavior --</p> <p>22 MR. ZAUSMER: Okay. Let</p> <p>23 me -- hold on. Let's go off the record.</p> <p>24 (At 3:23 p.m. the proceedings</p> <p>25 recessed, continuing at 3:25 p.m.)</p>	<p style="text-align: right;">Page 23</p> <p>1 MR. DeSHAZO: We have not agreed</p> <p>2 that you do not owe me any attorneys' fees. He</p> <p>3 doesn't have to agree to anything. That's you and</p> <p>4 I.</p> <p>5 Q (By Mr. Zausmer) Okay. And so just to be</p> <p>6 clear, just to be clear --</p> <p>7 A Okay.</p> <p>8 Q -- whatever differences or issues may</p> <p>9 exist between you and Mr. DeShazo in terms of</p> <p>10 attorneys' fees matters, those are going to be</p> <p>11 sorted out as between you and Mr. DeShazo, correct?</p> <p>12 A Well, I thought -- okay. I don't want to</p> <p>13 belabor this point, but I thought the whole room</p> <p>14 heard him say that I don't owe him any attorneys'</p> <p>15 fees.</p> <p>16 MR. DeSHAZO: Providing you</p> <p>17 never come to Austin again, and in case you do I</p> <p>18 want liquidated damages of \$50,000.</p> <p>19 THE WITNESS: Is it -- are we on</p> <p>20 the record?</p> <p>21 Q (By Mr. Zausmer) We're on the record.</p> <p>22 A Okay. Let's just move on.</p> <p>23 MR. ROGSTAD: Yeah. Let's do</p> <p>24 it.</p> <p>25 Q (By Mr. Zausmer) Okay. So let me just in</p>
<p style="text-align: right;">Page 22</p> <p>1 Q (By Mr. Zausmer) We've gone off the</p> <p>2 record momentarily, and are you ready to go back on</p> <p>3 the record, Ms. McCracken?</p> <p>4 A Yes. I apologize.</p> <p>5 Q Okay. Thank you. And it has been agreed</p> <p>6 that you and your attorney of record, Mr. DeShazo,</p> <p>7 are going to sort through whatever differences you</p> <p>8 have, correct?</p> <p>9 A I believe we settled them on the record.</p> <p>10 I don't know -- but yes. Okay.</p> <p>11 Q Okay. But I'm not here --</p> <p>12 A I apologize.</p> <p>13 Q I'm wanting to focus on --</p> <p>14 A No. Let's focus --</p> <p>15 Q -- zeroing in on the issues --</p> <p>16 A -- on what we're doing here. Yes.</p> <p>17 Q -- between you on the one hand and Mike</p> <p>18 and his law firm on the other hand.</p> <p>19 A Right.</p> <p>20 Q Okay.</p> <p>21 A We agreed that I don't owe Mr. DeShazo any</p> <p>22 attorneys' fees, you're going to make the check out</p> <p>23 to me, and he's not involved in any of our land</p> <p>24 deals.</p> <p>25 Q Okay.</p>	<p style="text-align: right;">Page 24</p> <p>1 the spirit of moving on, Ms. McCracken --</p> <p>2 A Yes.</p> <p>3 Q -- let's let me just make sure that it's</p> <p>4 abundantly clear on the record that all of the terms</p> <p>5 and conditions of the settlement agreement that I</p> <p>6 recited here and that you heard and that you</p> <p>7 testified to between you on the one hand and Mike</p> <p>8 and his law firm on the other hand are complete,</p> <p>9 they're accurate, and they're agreed to by you,</p> <p>10 correct?</p> <p>11 A Correct.</p> <p>12 Q And you understand the terms and</p> <p>13 conditions of the settlement agreement between you</p> <p>14 on the one hand and Mike and his law firm on the</p> <p>15 other hand?</p> <p>16 A Yes, sir.</p> <p>17 Q And you understand that the agreement that</p> <p>18 we have set out on the record that you've testified</p> <p>19 to today is a binding, valid, enforceable agreement.</p> <p>20 Do you understand that?</p> <p>21 A Yes, sir.</p> <p>22 Q And you want this settlement to go forward</p> <p>23 under the terms and conditions as precisely</p> <p>24 described as between you on the one hand and</p> <p>25 Mr. Barron and his law firm on the other hand?</p>

6 (Pages 21 to 24)

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1	A Yes, sir. And we're talking about a month	1	CHANGES AND SIGNATURE
2	time frame, something like that?	2	PAGE LINE CHANGE REASON
3	Q That's exactly what we're looking at.	3	
4	A Okay. That's wonderful.	4	
5	Q In terms of getting everything finalized.	5	
6	A Just loosely speaking. Yes.	6	See attached
7	Q Right. Okay. Thank, Ms. McCracken.	7	Final page
8	A Thank you.	8	TAME
9	MR. ZAUSMER: I pass the	9	
10	witness.	10	
11	MR. DeSHAZO: No questions.	11	
12	(At 3:29 p.m. the proceedings	12	
13	went off the record, continuing at 3:29 p.m.)	13	
14	Q (By Mr. Zausmer) One matter I just wanted	14	
15	to mention. When we were on a break today I handed	15	
16	to you a what appears to be a check. It had	16	
17	"Sampson" on the exterior of the envelope.	17	
18	A Yes.	18	
19	Q It's something that has been held in	19	
20	trust. It had been received from Mr. Barron's	20	
21	office while Mr. Barron was away on vacation. It	21	
22	has been maintained here. I provided notice to your	22	
23	counsel. I handed that to you today. It is a check	23	
24	apparently that had been replaced.	24	
25	A Yes. Thank you.	25	

Page 26		Page 28	
1	Q Now you have received it, you've torn	1	I, <u>TIERNEY BARRON</u> , have
2	up --	2	read the foregoing deposition and hereby affix my
3	A Just --	3	signature that same is true and correct, except as
4	Q -- this check because it's void.	4	noted on the preceding page.
5	A Yes.	5	
6	Q But I just wanted to make sure it was	6	<u>Tierney McCracken</u>
7	clear that you did receive that check.	7	TIERNEY MCCrackEN
8	A Yes, I did. I wasn't aware that it was	8	State VA
9	here, but thank you for holding it for me.	9	CITY Winchester
10	Q Okay. Thank you.	10	COUNTY OF TRAVIS
11	A Thank you.	11	Before me <u>Melissa A. Self</u> (name
12	Q Okay.	12	of officer) on this day personally appeared
13	(At 3:30 p.m. the proceedings	13	<u>Tierney Barron</u> , known to me (or proved to me
14	adjourned.)	14	under oath or through <u>VA DI</u> (description of
15		15	identity card or other document)) to be the person whose
16		16	name is subscribed to the foregoing instrument and
17		17	acknowledged to me that they executed the same for the
18		18	purposes and consideration therein expressed.
19		19	Given under my hand and seal of office on this <u>16th</u>
20		20	day of <u>November</u> , A.D., 2007.
21		21	
22		22	<u>Melissa A. Self</u>
23		23	Notary Public in and for
24			the State of Texas
25			Virginia

MELISSA A. SELF
 Notary Public
 Commonwealth of Virginia
 329226
 My Commission Expires Nov 30, 2011

Tierney McCracken

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1 REPORTER'S CERTIFICATION
 2 DEPOSITION OF TIERNEY McCracken
 3 October 16, 2007
 4 I, Sandra S. Givens, Certified Shorthand
 5 Reporter in and for the State of Texas, hereby
 6 certify to the following:
 7 That the witness, TIERNEY McCracken, was duly
 8 sworn by the officer and that the transcript of the
 9 oral deposition is a true record of the testimony
 10 given by the witness;
 11 That the deposition transcript was submitted on
 12 October 19, 2007 to the witness or to the attorney
 13 for the witness for examination, signature, and
 14 return to me by November 19, 2007;
 15 That \$377.00 is the deposition officer's
 16 charges to the Defendant for preparing the original
 17 deposition transcript and for the time spent waiting
 18 during negotiations throughout the day; that the
 19 amount of time used by each party at the deposition
 20 is as follows:
 21 Gary E. Zausmer - 26 minutes
 22 That pursuant to information given to the
 23 deposition officer at the time said testimony was
 24 taken, the following includes counsel for all
 25 parties of record:

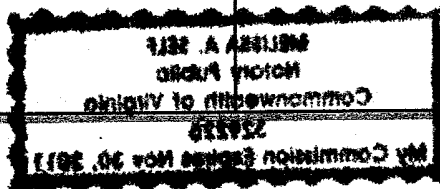
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1 Gary F. DeShazo - Attorney for Plaintiff
 2 Gary E. Zausmer - Attorney for Defendant Barron
 3 Mark Rogstad - Attorney for Defendant Law Firm
 4 I further certify that I am neither counsel
 5 for, related to, nor employed by any of the parties
 6 or attorneys in the action in which this proceeding
 7 was taken, and further, that I am not financially or
 8 otherwise interested in the outcome of the action.
 9 Certified to by me this 19th day of October,
 10 2007.

11 GIVENS COURT REPORTING
 12 9532 Morgan Creek Drive
 13 Austin, Texas 78717
 14 (512) 301-7088

15 SANDRA S. GIVENS, CSR
 16 Certification No. 5000
 17 Certificate Expires 12/31/07

18 # sg-862
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 24
 25



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Givens Court Reporting

(512) 301-7088

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CHANGES AND SIGNATURE

PAGE	LINE	CHANGE	REASON
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3	Page 12, Lines 15 and 16	... , both surface and mineral, ...	Clarification
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4	Page 12, Line 25	"... property is" or should have been "owned by William..."	Clarification
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5	Page 13, Line 6	convey by appropriate deed	less vague
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6	Page 13, Line 8	mineral or surface interests	Clarification
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7	Page 13, Lines 10 and 11	strike William (Bill Barron)	need specifics
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8	Page 16, Lines 5 through 10	On the record, I would like to say that I did not raise the issue of the ongoing Bar Complaint. It is my understanding that the two venues (Civil and Bar) are never to meet. It was a sad day when I initiated the complaint process, and I will be pleased to let it go. However, I have no fear with regard to the contents of that document; my statements are honest and the facts not exaggerated	Clarification
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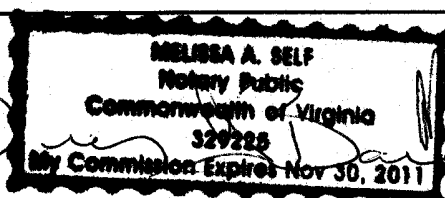
9	Page 24, Lines 7, 8	Far from complete, nothing of what Mike said is on the record. For example his statement that he did not know Dodds financed the purchase of our property; or that he (Mike) would look into – make sure that – he and Barbara had put all of the required minerals (as outlined in Grandmother's handwritten note) into the Barron Mineral Partnership. I agreed not to ask for certain things such as records, interest on delay rentals not paid, no costly accountings. These aspects are favorable to Mike.	
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We discussed Ken Parker's conversation with Larry Stewart regarding the David Barron Family Trust recieving a .10 mineral interest in the past rather than the correct .20 interest.

Addressing my concern that I had never had seen the books for the DAB Trust, Mike promised they are identical except for the one CD rolled over from Sandy.

Clarification

cln Winchester VA
on 11/16/2007
Melissa A. Self



[Signature]